

**CITY COUNCIL OF THE CITY OF SAN DIEGO
SPECIAL CLOSED SESSION DOCKET
FOR
MONDAY, NOVEMBER 8, 2004 AT 2:00 P.M.
CITY ADMINISTRATION BUILDING
COMMITTEE ROOM – 12TH FLOOR
202 “C” STREET
SAN DIEGO, CA 92101**

NOTE: In accordance with the San Diego City Council Temporary Rule for Noticing and Conduct of Closed Session Meetings a portion of the regular open meeting agenda of the City Council has been reserved for City Attorney comment, public comment, and City Council discussion of the content of this Closed Session Docket. Please see the Open Session Agenda to determine when such matters may be heard.

Due to the anticipated length of the regular City Council meeting for November 9, 2004, the Mayor is calling a Special Closed Session meeting for Monday, November 8, 2004, in the Committee Room on the 12th Floor of the City Administration Building, 202 C Street, San Diego, California. **The Special Closed Session will commence immediately following the conclusion of the regular open session meeting that day.**

Pursuant to the new temporary Council Rule on closed sessions, the public will have the opportunity to comment on these matters during the regular open session of the City Council on November 8, 2004. The open session agenda for that day will reflect the appropriate open session item for public comment. **The Closed Session called pursuant to this memorandum may continue into Tuesday, November 9, 2004.**

Conference with Legal Counsel - existing litigation, pursuant to California Government Code section 54956.9(a):

**CS-1 *City of San Diego v. Barratt/Barczewski*
4th Dist. Ct. of Appeal, Division One Case No. D042582**

***City of San Diego v. DMIG/Gondor*
4th Dist. Ct. of Appeal, Division One Case No. D044556**

***City of San Diego v. D.R. Horton*
4th Dist. Ct. of Appeal, Division One Case No. D043425**

***City of San Diego v. Lee Living Trust*
4th Dist. Ct. of Appeal, Division One Case No. D044079**

DCA assigned: Silva

These matters involve the appeals from the State Route 56 trials. In Closed Session, Outside Counsel will report on the status of the appeals, discuss possible resolution of certain appeals, and report and convey settlement proposals.

**CS-2 *Paladin Aviation, Inc., v. City of San Diego*
San Diego Superior Court, Case No. GIC821416
(Consolidated with Case No. GIC826820)**

DCA assigned: Weirman

These matters involve a lease dispute between the City and a long-term lessee at Brown Field. In Closed Session, the City Attorney and City Manager will brief the City Council on the litigation and discuss a proposed resolution of it.

**CS-3 *Gleason v. San Diego City Employees' Retirement System*
San Diego Superior Court Case No. GIC 803779**

HDCA assigned: Chris Morris

This matter involves litigation concerning the City's retirement system and the City's obligation to fund that system. Previously, a settlement was reached with the plaintiffs, the terms of which generally involve certain payments by the City to the system in each of Fiscal Years 2005, 2006, 2007, and 2008. In Closed Session, the City Attorney and the City's outside counsel will report to the City Council on the conduct of negotiations regarding plaintiff's counsel's attorney fees application.

**CS-4 *United States of America v. City of San Diego*
U.S. District Court No. 03-CV-1349-K**

***State of California v. City of San Diego*
U.S. District Court No. 03-CV-1381-J**

***San Diego BayKeeper / Surfrider Foundation v. City of San Diego*
U.S. District Court No. 01-CV-0550-B**

DCA assigned: Bromfield

Each of these lawsuits alleges violations of the federal Clean Water Act due to sewer system overflows experiences by the City from December 1996 to the present. For judicial economy, all cases have been consolidated and the parties have been exploring potential resolutions involving settlement documents that would resolve all of the actions.

In closed session, the City Attorney will discuss status of the matter and the City's position. The City Attorney will also discuss the possibility of settlement on specified conditions to resolve all spills through date of settlement.

Conference with Legal Counsel - anticipated litigation - significant exposure to litigation, pursuant to California Government Code section 54956.9(b):

CS-5 In the matter of SBC and the Underground Utility Program

The Underground Utility Program converts existing overhead utility lines to underground service in the City of San Diego. The City and SDG&E previously agreed to expand the scope of the Underground Utility Program to extend to areas that are not eligible under the statewide program known as Rule 20. The City and SBC California [SBC] disagree as to whether SBC is obligated to participate in the expanded program. In closed session, the City Attorney and City Manager will present on the status of discussions with SBC, the potential for litigation or settlement, and the City's options with regard to the matter.

DCA assigned: Zeleny